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3 **UNITED STATES DISTRICT COURT**

4
5 **DISTRICT OF NEVADA**

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8 FSP STALLION 1, LLC, *et al.*,) Case No. 2:08-CV-01155-PMP-PAL
9 Plaintiffs,)
10 v.) **ORDER**
11 MICHAEL LUCE, *et al.*,)
12 Defendants.)
13 AND ALL RELATED CLAIMS)
14)
15)

16 Having read and considered Plaintiffs/Counterdefendants' fully briefed Motion for
17 Summary Judgment as to All Counterclaims By Defendant/Counterclaimant William T.
18 Walters (Doc. #446) and having further considered the arguments of counsel presented at
19 the hearing conducted August 11, 2011, the Court finds that for the reasons set forth in
20 their Motion, Plaintiffs/Counterdefendants' Motion for Summary Judgment as to all
21 Counterclaims should be granted.

22 Specifically, Defendant/Counterclaimant Walters fails to state cognizable claims
23 for waste (First Cause of Action), conversion (Second Cause of Action) and
24 contribution/indemnity (Third Cause of Action). At the time events giving rise to those
25 alleged claims occurred, Walters had no ownership interest in the property in question.
26 Moreover, the conduct complained of does not constitute physical damage or other injury
27 to the property sufficient to amount to waste. Walters' argument that his personal
28 guarantee of \$15,000,000 on the Stallion Mountain Purchase Loan entitles him as

1 Subrogee to enforce the rights of Community Bank of Nevada against
2 Plaintiffs/Counterdefendants must fail because it is undisputed that Walters has not paid
3 any obligation on the guarantee in question. Finally, Walters' contribution/indeemnity
4 claim fails for the additional reason that there is no predicate tort liability alleged which
5 would provide a basis for a claim of contribution/indeemnity.

6 **IT IS THEREFORE ORDERED** that Plaintiffs/Counterdefendants' Motion for
7 Summary Judgment as to All Counterclaims By Defendant/Counterclaimant William T.
8 Walters (Doc. #446) is **GRANTED**.

9 DATED: August 15, 2011.

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12 PHILIP M. PRO
13 United States District Judge
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